



## THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

### **DETERMINATIONS BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AUTHORIZING USE OF GOVERNMENT OWNED VEHICLES FOR HOME-TO-WORK TRANSPORTATION PURSUANT TO 41 C.F.R. PART 102-5 FOR CIRCUMSTANCES THAT CONSTITUTE COMPELLING OPERATIONAL CONSIDERATIONS**

The U.S. Environmental Protection Agency Administrator makes the following determinations and approval of use under Federal Management Regulation (FMR) Part 102-5:

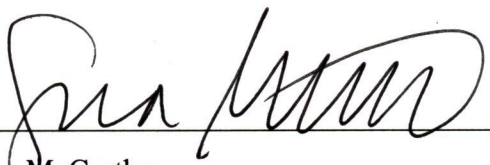
1. The EPA's Office of General Counsel has issued an opinion impacting home-to-work authorization previously provided to certain EPA employees. There is a compelling operational need for a temporary transitional period to enable the EPA to adopt new approaches to such transportation without disrupting agency operations.
2. Accordingly, EPA employees in the following positions are hereby authorized for an initial period of 15 days to use government-owned vehicles for transportation between their residences and places of EPA employment when officially required:

On-Scene Coordinators (OSCs) required by the EPA to be in on-call duty status in Regional Offices, Field Offices and outpost locations.

3. Furthermore, because a compelling operational need will continue to exist beyond this initial period of 15 days, these employees are hereby authorized for a subsequent period of 90 days to use government-owned vehicles for transportation between their residences and places of EPA employment when officially required.
4. Government-owned vehicle transportation is necessary between residence and place of EPA employment for the following reasons:

Relying upon a July 7, 1998, EPA Office of General Counsel memorandum, the EPA has up to this time authorized home-to-work transportation for on-call OSCs under the field work exception to the general prohibition on such use, at 31 U.S.C. 1344(a)(2)(a). Recently, however, when asked to review this authority, OGC issued a new memorandum, which is attached, that supersedes the 1998 memorandum and holds that on-call OSCs who are not actually performing field work should not be authorized home-to-work transportation under this authority. As a result, the emergency response program will transition to alternative practices that will allow the program to carry out its response capabilities after hours in the most efficient manner, while remaining compliant with 41 U.S.C. §1344.

5. In order to implement a new protocol in a manner that will minimize the operational impact on this important environmental response program, sufficient time is needed to identify and secure locations to base these vehicles. During this transitional period the EPA must avoid significant disruption of its critical emergency response capabilities. Having emergency response vehicles in close proximity to the responders at all times allows for the most efficient response to an incident and is also consistent with the EPA's role under the governmentwide national continuity program, as emergency oil and hazardous materials response has been designated as the agency's primary mission essential function<sup>1</sup>.
6. The above-described circumstances are within the meaning of FMR Part 102-5.
7. Use of government-owned vehicles for home-to-work transportation by OSCs required by the EPA to be in an on-call duty status in Regional Offices, Field Offices, and outpost locations is essential to the conduct of official business and will substantially increase the efficiency and economy of the agency. The use is not for the personal comfort or convenience of the employees.
8. The initial determination and approval shall be effective for a period of 15 consecutive calendar days, beginning with the first day of motor vehicle usage on or about May 25, 2016. The subsequent determination shall be effective for a subsequent 90 consecutive calendar days, but only if the same circumstances underlying this determination and approval continue to exist.
9. Administrative controls to validate use of these determinations: A record of home-to-work use will be maintained by each employee using home-to-work transportation, in accordance with 41 C.F.R. §102-5.120.

  
Gina McCarthy

5/26/16  
Date

---

<sup>1</sup> Under Homeland Security Presidential Directive-20 (HSPD-20), "Primary Mission Essential Functions," or "PMEFs," are those government functions that must be performed in order to support or implement the performance of national essential functions before, during and in the aftermath of an emergency.